

section (a)(4) or (a)(5) of such section) or 117 of this title, the offender shall be fined under this title or imprisoned for not more than 15 years, or both.

(c) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

(e) In this section—

(1) the term “Federal law enforcement officer” has the meaning given the term in section 115(c);

(2) the term “heave to” means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

(3) the term “vessel subject to the jurisdiction of the United States” has the meaning given the term in section 70502 of title 46;

(4) the term “vessel of the United States” has the meaning given the term in section 70502 of title 46; and

(5) the term “transportation under inhumane conditions” means—

(A) transportation—

(i) of one or more persons in an engine compartment, storage compartment, or other confined space;

(ii) at an excessive speed; or

(iii) of a number of persons in excess of the rated capacity of the vessel; or

(B) intentional grounding of a vessel in which persons are being transported.

(Added Pub. L. 109-177, title III, §303(a), Mar. 9, 2006, 120 Stat. 233; amended Pub. L. 111-281, title IX, §917, Oct. 15, 2010, 124 Stat. 3021.)

REFERENCES IN TEXT

Section 274 of the Immigration and Nationality Act, referred to in subsec. (b)(4), is classified to section 1324 of Title 8, Aliens and Nationality.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-281, §917(a), amended subsec. (b) generally. Prior to amendment subsec. (b) read as follows: “Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.”

Subsec. (e)(3). Pub. L. 111-281, §917(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the term ‘vessel subject to the jurisdiction of the United States’ has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and”.

Subsec. (e)(4). Pub. L. 111-281, §917(b)(2), substituted “section 70502 of title 46; and” for “section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).”

Subsec. (e)(5). Pub. L. 111-281, §917(b)(3), added par. (5).

CHAPTER 109A—SEXUAL ABUSE

Sec.	
2241.	Aggravated sexual abuse.
2242.	Sexual abuse.
2243.	Sexual abuse of a minor or ward.
2244.	Abusive sexual contact.
2245.	Sexual abuse resulting in death. ¹
2246.	Definitions for chapter.
2247.	Repeat offenders.
2248.	Mandatory restitution.

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical chapters 109A.

AMENDMENTS

1994—Pub. L. 103-322, title IV, §§40111(c), 40113(a)(2), title VI, §60010(b), Sept. 13, 1994, 108 Stat. 1903, 1907, 1973, redesignated item 2245 as 2246 and added items 2245, 2247, and 2248.

§ 2241. Aggravated sexual abuse

(a) BY FORCE OR THREAT.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly causes another person to engage in a sexual act—

(1) by using force against that other person; or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) BY OTHER MEANS.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly—

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) WITH CHILDREN.—Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direc-

¹ Section catchline amended by Pub. L. 109-248 without corresponding amendment of chapter analysis.

tion of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title and imprisoned for not less than 30 years or for life. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.

(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3620, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3660; amended Pub. L. 103-322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 104-208, div. A, title I, § 101(a) [title I, § 1217(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-26, 3009-31; Pub. L. 105-314, title III, § 301(a), Oct. 30, 1998, 112 Stat. 2978; Pub. L. 109-162, title XI, § 1177(a)(1), (2), Jan. 5, 2006, 119 Stat. 3125; Pub. L. 109-248, title II, § 206(a)(1), 207(2), July 27, 2006, 120 Stat. 613, 615; Pub. L. 110-161, div. E, title V, § 554, Dec. 26, 2007, 121 Stat. 2082.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2241.

AMENDMENTS

2007—Subsecs. (a) to (c). Pub. L. 110-161 substituted “the head of any Federal department or agency” for “the Attorney General”.

2006—Subsecs. (a), (b). Pub. L. 109-248, § 207(2), inserted comma after “Attorney General” in introductory provisions.

Pub. L. 109-162, § 1177(a)(1), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions.

Subsec. (c). Pub. L. 109-248 inserted comma after “Attorney General” and substituted “and imprisoned for not less than 30 years or for life” for “, imprisoned for any term of years or life, or both” in first sentence.

Pub. L. 109-162, § 1177(a)(2), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in first sentence.

1998—Subsec. (c). Pub. L. 105-314 substituted “younger than the person so engaging” for “younger than that person”.

1996—Subsec. (c). Pub. L. 104-208 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.”

1994—Subsec. (a)(2). Pub. L. 103-322 substituted “kidnapping” for “kidnaping”.

EFFECTIVE DATE

Section 87(e) of Pub. L. 99-646 and section 4 of Pub. L. 99-654 provided, respectively, that: “This section and the amendments made by this section [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 10, 1986].” and “This Act and the amendments made by this Act [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 14, 1986].”

SHORT TITLE OF 1996 AMENDMENT

Section 101(a) [title I, § 1217(a)] of Pub. L. 104-208 provided that: “This section [probably means subsec. 7 of section 121 of Pub. L. 104-208, div. A, title I, § 101(a), which amended sections 2241 and 2243 of this title] may be cited as the ‘Amber Hagerman Child Protection Act of 1996’.”

SHORT TITLE OF 1986 AMENDMENT

Section 87(a) of Pub. L. 99-646 and section 1 of Pub. L. 99-654 provided, respectively, that: “This section [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w-3, 300w-4, and 9511 of Title 42, The Public Health and Welfare, and section 1472 of former Title 49, Transportation, and repealing chapter 99 of this title] may be cited as the ‘Sexual Abuse Act of 1986’.” and “This Act [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w-3, 300w-4, and 9511 of Title 42, and section 1472 of former Title 49, Transportation, and repealing chapter 99 of this title] may be cited as the ‘Sexual Abuse Act of 1986’.”

§ 2242. Sexual abuse

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly—

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is—

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title and imprisoned for any term of years or for life.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 103-322, title XXXIII, § 330021(1), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 109-162, title XI, § 1177(a)(3), Jan. 5, 2006, 119 Stat. 3125; Pub. L. 109-248, title II, § 205, 207(2), July 27, 2006, 120 Stat. 613, 615; Pub. L. 110-161, div. E, title V, § 554, Dec. 26, 2007, 121 Stat. 2082.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2242.

AMENDMENTS

2007—Pub. L. 110-161 substituted “the head of any Federal department or agency” for “the Attorney General” in introductory provisions.

2006—Pub. L. 109-248 inserted comma after “Attorney General” in introductory provisions and substituted “and imprisoned for any term of years or for life” for “, imprisoned not more than 20 years, or both” in concluding provisions.

Pub. L. 109-162 inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions.

1994—Par. (1). Pub. L. 103-322 substituted “kidnaping” for “kidnaping”.

§ 2243. Sexual abuse of a minor or ward

(a) OF A MINOR.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who is—

(1) in official detention; and

(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

(c) DEFENSES.—(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

(d) STATE OF MIND PROOF REQUIREMENT.—In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

(1) the age of the other person engaging in the sexual act; or

(2) that the requisite age difference existed between the persons so engaging.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 101-647, title III, § 322, Nov. 29, 1990, 104 Stat. 4818; Pub. L. 104-208, div. A, title I, § 101(a) [title I, § 1217(c)], Sept. 30,

1996, 110 Stat. 3009, 3009-26, 3009-31; Pub. L. 105-314, title III, § 301(b), Oct. 30, 1998, 112 Stat. 2979; Pub. L. 109-162, title XI, § 1177(a)(4), (b)(1), Jan. 5, 2006, 119 Stat. 3125; Pub. L. 109-248, title II, § 207, July 27, 2006, 120 Stat. 615; Pub. L. 110-161, div. E, title V, § 554, Dec. 26, 2007, 121 Stat. 2082.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2243.

AMENDMENTS

2007—Subsecs. (a), (b). Pub. L. 110-161 substituted “the head of any Federal department or agency” for “the Attorney General” in introductory provisions.

2006—Subsec. (a). Pub. L. 109-248, § 207(2), inserted comma after “Attorney General” in introductory provisions.

Pub. L. 109-162, § 1177(a)(4), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions.

Subsec. (b). Pub. L. 109-248 inserted comma after “Attorney General” in introductory provisions and substituted “15 years” for “five years” in concluding provisions.

Pub. L. 109-162, § 1177(a)(4), (b)(1), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions and substituted “five years” for “one year” in concluding provisions.

1998—Subsec. (a). Pub. L. 105-314 struck out “crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or” after “Whoever” in introductory provisions.

1996—Subsec. (a). Pub. L. 104-208 inserted “crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or” after “Whoever” in introductory provisions.

1990—Subsec. (a). Pub. L. 101-647 substituted “15 years” for “five years” in concluding provisions.

§ 2244. Abusive sexual contact

(a) SEXUAL CONDUCT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHED BY THIS CHAPTER.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

(1) subsection (a) or (b) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both;

(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both; or

(5) subsection (c) of section 2241 of this title had the sexual contact been a sexual act, shall

be fined under this title and imprisoned for any term of years or for life.

(b) IN OTHER CIRCUMSTANCES.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in sexual contact with another person without that other person's permission shall be fined under this title, imprisoned not more than two years, or both.

(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section (other than subsection (a)(5)) is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3622, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661; amended Pub. L. 100-690, title VII, § 7058(a), Nov. 18, 1988, 102 Stat. 4403; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 105-314, title III, § 302, Oct. 30, 1998, 112 Stat. 2979; Pub. L. 109-162, title XI, § 1177(a)(5), (b)(2), Jan. 5, 2006, 119 Stat. 3125; Pub. L. 109-248, title II, §§ 206(a)(2), 207(2), July 27, 2006, 120 Stat. 613, 615; Pub. L. 110-161, div. E, title V, § 554, Dec. 26, 2007, 121 Stat. 2082.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2244.

AMENDMENTS

2007—Subsecs. (a), (b). Pub. L. 110-161 substituted “the head of any Federal department or agency” for “the Attorney General”.

2006—Subsec. (a). Pub. L. 109-248, § 207(2), inserted comma after “Attorney General” in introductory provisions.

Pub. L. 109-162, § 1177(a)(5), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” in introductory provisions.

Subsec. (a)(1). Pub. L. 109-248, § 206(a)(2)(A)(i), inserted “subsection (a) or (b) of” before “section 2241 of this title”.

Subsec. (a)(4). Pub. L. 109-162, § 1177(b)(2), substituted “two years” for “six months”.

Subsec. (a)(5). Pub. L. 109-248, § 206(a)(2)(A)(ii)–(iv), added par. (5).

Subsec. (b). Pub. L. 109-248, § 207(2), inserted comma after “Attorney General”.

Pub. L. 109-162, § 1177(a)(5), (b)(2), inserted “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,” and substituted “two years” for “six months”.

Subsec. (c). Pub. L. 109-248, § 206(a)(2)(B), inserted “(other than subsection (a)(5))” after “violates this section”.

1998—Subsec. (c). Pub. L. 105-314 added subsec. (c).

1994—Subsecs. (a)(4), (b). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

1988—Subsec. (a). Pub. L. 100-690 substituted “ten years” for “five years” in par. (1) and “two years” for “one year” in par. (3).

§ 2245. Offenses resulting in death

(a)¹ IN GENERAL.—A person who, in the course of an offense under this chapter, or section 1591, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425, murders an individual, shall be punished by death or imprisoned for any term of years or for life.

(Added Pub. L. 103-322, title VI, § 60010(a)(2), Sept. 13, 1994, 108 Stat. 1972; amended Pub. L. 109-248, title II, § 206(a)(3), July 27, 2006, 120 Stat. 613.)

PRIOR PROVISIONS

A prior section 2245 was renumbered section 2246 of this title.

AMENDMENTS

2006—Pub. L. 109-248 amended section catchline and text generally. Prior to amendment, text read as follows: “A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.”

§ 2246. Definitions for chapter

As used in this chapter—

(1) the term “prison” means a correctional, detention, or penal facility;

(2) the term “sexual act” means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) the term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(4) the term “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(5) the term “official detention” means—

(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commit-

¹ So in original. No subsec. (b) has been enacted.

ment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency; and

(6) the term “State” means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3622, § 2245, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3662, § 2245; renumbered § 2246 and amended Pub. L. 103-322, title IV, § 40502, title VI, § 60010(a)(1), Sept. 13, 1994, 108 Stat. 1945, 1972; Pub. L. 105-314, title III, § 301(c), Oct. 30, 1998, 112 Stat. 2979.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections.

AMENDMENTS

1998—Par. (6). Pub. L. 105-314 added par. (6).

1994—Pub. L. 103-322, § 60010(a)(1), renumbered section 2245 of this title as this section.

Par. (2)(D). Pub. L. 103-322, § 40502, added subpar. (D).

§ 2247. Repeat offenders

(a) **MAXIMUM TERM OF IMPRISONMENT.**—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter, unless section 3559(e) applies.

(b) **PRIOR SEX OFFENSE CONVICTION DEFINED.**—In this section, the term “prior sex offense conviction” has the meaning given that term in section 2426(b).

(Added Pub. L. 103-322, title IV, § 40111(a), Sept. 13, 1994, 108 Stat. 1903; amended Pub. L. 105-314, title III, § 303, Oct. 30, 1998, 112 Stat. 2979; Pub. L. 108-21, title I, § 106(b), Apr. 30, 2003, 117 Stat. 655.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-21 inserted “, unless section 3559(e) applies” before period at end.

1998—Pub. L. 105-314 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.”

§ 2248. Mandatory restitution

(a) **IN GENERAL.**—Notwithstanding section 3663 or 3663A, and in addition to any other civil or

criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) **SCOPE AND NATURE OF ORDER.**—

(1) **DIRECTIONS.**—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).

(2) **ENFORCEMENT.**—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) **DEFINITION.**—For purposes of this subsection, the term “full amount of the victim's losses” includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

(F) any other losses suffered by the victim as a proximate result of the offense.

(4) **ORDER MANDATORY.**—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) **DEFINITION.**—For purposes of this section, the term “victim” means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.

(Added Pub. L. 103-322, title IV, § 40113(a)(1), Sept. 13, 1994, 108 Stat. 1904; amended Pub. L. 104-132, title II, § 205(b), Apr. 24, 1996, 110 Stat. 1231.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-132, § 205(b)(1), inserted “or 3663A” after “3663”.

Subsec. (b)(1). Pub. L. 104-132, § 205(b)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.”

Subsec. (b)(2). Pub. L. 104-132, § 205(b)(2)(B), struck out “by victim” after “Enforcement” in heading and

amended text generally. Prior to amendment, text read as follows: “An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.”

Subsec. (b)(4)(C), (D). Pub. L. 104-132, § 205(b)(2)(C), struck out subpars. (C) and (D), which related to court’s consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court’s entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104-132, § 205(b)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104-132, § 205(b)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104-132, § 205(b)(3), struck out subsecs. (d) and (e) which read as follows:

“(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

“(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”

Subsec. (f). Pub. L. 104-132, § 205(b)(4), redesignated subsec. (f) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 211 of title II of Pub. L. 104-132 provided that: “The amendments made by this subtitle [subtitle A (§§ 201-211) of title II of Pub. L. 104-132, see Short Title of 1996 Amendment note set out under section 3551 of this title] shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act [Apr. 24, 1996].”

CHAPTER 109B—SEX OFFENDER AND CRIMES AGAINST CHILDREN REGISTRY

Sec.
2250. Failure to register.

§ 2250. Failure to register

(a) IN GENERAL.—Whoever—

(1) is required to register under the Sex Offender Registration and Notification Act;

(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

shall be fined under this title or imprisoned not more than 10 years, or both.

(b) AFFIRMATIVE DEFENSE.—In a prosecution for a violation under subsection (a), it is an affirmative defense that—

(1) uncontrollable circumstances prevented the individual from complying;

(2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and

(3) the individual complied as soon as such circumstances ceased to exist.

(c) CRIME OF VIOLENCE.—

(1) IN GENERAL.—An individual described in subsection (a) who commits a crime of violence under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States shall be imprisoned for not less than 5 years and not more than 30 years.

(2) ADDITIONAL PUNISHMENT.—The punishment provided in paragraph (1) shall be in addition and consecutive to the punishment provided for the violation described in subsection (a).

(Added Pub. L. 109-248, title I, § 141(a)(1), July 27, 2006, 120 Stat. 602.)

REFERENCES IN TEXT

The Sex Offender Registration and Notification Act, referred to in subsec. (a)(1), (2)(A), (3), is title I of Pub. L. 109-248, July 27, 2006, 120 Stat. 590, which is classified principally to subchapter I (§16901 et seq.) of chapter 151 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 16901 of Title 42 and Tables.

The Uniform Code of Military Justice, referred to in subsecs. (a)(2)(A) and (c)(1), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

Sec. 2251.	Sexual exploitation of children.
2251A.	Selling or buying of children.
2252.	Certain activities relating to material involving the sexual exploitation of minors.
2252A.	Certain activities relating to material constituting or containing child pornography.
2252B.	Misleading domain names on the Internet.
2252C.	Misleading words or digital images on the Internet.
2253.	Criminal forfeiture.
2254.	Civil forfeiture.
2255.	Civil remedy for personal injuries.
2256.	Definitions for chapter.
2257.	Record keeping requirements.
2257A.	Recordkeeping requirements for simulated sexual conduct. ¹
2258.	Failure to report child abuse.
2258A.	Reporting requirements of electronic communication service providers and remote computing service providers.
2258B.	Limited liability for electronic communication service providers and remote computing service providers. ¹
2258C.	Use to combat child pornography of technical elements relating to images reported to the CyberTipline.
2258D.	Limited liability for the National Center for Missing and Exploited Children.
2258E.	Definitions.
2259.	Mandatory restitution.
2260.	Production of sexually explicit depictions of a minor for importation into the United States.
2260A.	Increased penalties for registered sex offenders. ¹

AMENDMENTS

2008—Pub. L. 110-401, title V, § 501(b)(3), Oct. 13, 2008, 122 Stat. 4251, added items 2258A to 2258E.

¹ So in original. Does not conform to section catchline.